

BY COMMITTEE OF THE WHOLE
RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANSING

WHEREAS, Section 206.24(R)(1) of the proposed Living Wage Ordinance provides that the obligation to pay a living wage shall not be effective until all classified employees of the City of Lansing receive a living wage; and

WHEREAS, the proposed ordinance envisions the submission of a certification from the Administration at such point in time that the City pays a living wage to all classified employees;

NOW, THEREFORE, BE IT RESOLVED that the Lansing City Council hereby requests bi-weekly reports from the Administration regarding its progress towards providing a living wage certification; and

BE IT FURTHER RESOLVED that the Lansing City Council expresses its intent that all classified city employees receive a living wage by October 1, 2005.

Approved For Placement on
The City Council Agenda:

City Attorney

Date: _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LANSING, MICHIGAN, TO AMEND CHAPTER 206, BY ADDING A NEW SECTION 206.24 OF THE LANSING CODE OF ORDINANCES FOR THE PURPOSE OF IMPROVING THE LIVES OF WORKING PEOPLE AND THEIR FAMILIES BY REQUIRING EMPLOYERS THAT CONTRACT WITH THE CITY OR RECEIVE ECONOMIC DEVELOPMENT ASSISTANCE TO PAY THEIR EMPLOYEES A WAGE SUFFICIENT TO MEET BASIC SUBSISTENCE NEEDS, AND PROVIDING FOR THE HIRING OF LANSING RESIDENTS AS EMPLOYEES WHEN AND WHERE POSSIBLE.

THE CITY OF LANSING ORDAINS:

Section 1. That Chapter 206 of the Code of Ordinances of the City of Lansing, Michigan, be and is hereby amended by adding a new Section 206.24 to read as follows:

SECTION 206.24.

(A) PURPOSE.

THE PURPOSE OF THIS SECTION IS TO IMPROVE THE LIVES OF WORKING PEOPLE AND THEIR FAMILIES BY REQUIRING EMPLOYERS THAT CONTRACT WITH THE CITY TO PAY THEIR EMPLOYEES A WAGE SUFFICIENT TO MEET BASIC SUBSISTENCE NEEDS, AND THAT THEY PROVIDE FOR THE HIRING OF LANSING RESIDENTS AS EMPLOYEES WHEN AND WHERE POSSIBLE.

(B) APPLICABILITY.

- (1) THIS SECTION APPLIES TO ANY CONTRACTOR WHO IS A PARTY TO A CONTRACT FOR SERVICES, AS DEFINED HEREIN.
- (2) THE MINIMUM LIVING WAGE REQUIREMENT OF THIS SECTION APPLIES TO ANY PART-TIME OR FULL-TIME EMPLOYEE OF A CONTRACTOR WHO IS EMPLOYED AT ANY JOB SITE COVERED BY A CONTRACT FOR SERVICES OR SUBSIDIZED, IN WHOLE OR IN PART, UNDER A CONTRACT FOR SERVICES; AND ANY PART-TIME OR FULL-TIME EMPLOYEE OF A GRANTEE.

(C) DEFINITIONS.

AS USED IN THIS SECTION:

- (1) "CLASSIFIED CITY EMPLOYEE" MEANS AN EMPLOYEE OF THE CITY WHO OCCUPIES A POSITION WHICH IS DEFINED BY A CLASSIFICATION SPECIFICATION AND IS ACKNOWLEDGED IN THE ANNUAL BUDGET.
- (2) "CONTRACT FOR SERVICES" MEANS A CONTRACT, OR COMBINATION OF CONTRACTS, BETWEEN A CONTRACTOR AND THE CITY OF LANSING PRIMARILY FOR THE FURNISHING OF SERVICES FOR WHICH THE TOTAL EXPENDITURE, INCLUDING ALL SUBCONTRACTS, EXCEEDS \$50,000

ANNUALLY, ON A FISCAL YEAR BASIS, AND DOES NOT INCLUDE A CONTRACT TO PURCHASE OR LEASE GOODS OR PROPERTY.

- (3) "CONTRACTOR" MEANS A PERSON WHO ENTERS INTO A CONTRACT FOR SERVICES WITH THE CITY HAVING FIVE OR MORE EMPLOYEES, INCLUDING ANY SUBCONTRACTORS.
- (4) "I.F.T. CERTIFICATE" MEANS ANY INDUSTRIAL FACILITIES TAX ABATEMENT CERTIFICATE ISSUED PURSUANT TO PUBLIC ACT 198 OF 1974, AS AMENDED.
- (5) "EMPLOYER" MEANS A PERSON WHO ENGAGES EMPLOYEES TO PROVIDE LABOR IN EXCHANGE FOR THE PAYMENT OF WAGES OR A SALARY.
- (6) "EMPLOYEE" MEANS ANY INDIVIDUAL WHO IS PAID TO WORK FOR AN EMPLOYER.
- (7) "FEDERAL POVERTY GUIDELINE" MEANS THE OFFICIAL POVERTY GUIDELINE FOR A FAMILY OF FOUR (4) PUBLISHED AND UPDATED ANNUALLY IN THE FEDERAL REGISTER BY THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER AUTHORITY OF 42 USC 9902(2).
- (8) "FULL-TIME EMPLOYEE" MEANS AN EMPLOYEE WHO IS EMPLOYED FOR NOT LESS THAN FORTY (40) HOURS IN A

CALENDAR WEEK.

- (9) "GRANTEE" MEANS A RECIPIENT OF AN I.F.T CERTIFICATE.
- (10) "HEALTH CARE BENEFITS" MEANS THE RIGHT OR RIGHTS GRANTED TO AN EMPLOYEE UNDER A CONTRACT, CERTIFICATE OR POLICY OF INSURANCE TO HAVE PAYMENT MADE BY A HEALTH CARE INSURER OR HEALTH CARE CORPORATION FOR SPECIFIED MEDICAL OR HEALTH CARE SERVICES FOR THE EMPLOYEE AND THE EMPLOYEE'S DEPENDENTS.
- (11) "IMPLEMENTING DEPARTMENT" MEANS THE HUMAN RELATIONS AND COMMUNITY SERVICES DEPARTMENT OF THE CITY OF LANSING.
- (12) "LIVING WAGE" MEANS AN HOURLY WAGE RATE WHICH IS EQUIVALENT TO 125% OF THE FEDERAL POVERTY LINE ON AN ANNUAL BASIS WHEN CALCULATED BASED ON FORTY HOURS PER WEEK, FIFTY WEEKS PER YEAR; PROVIDED HOWEVER, THAT COSTS PAID BY THE EMPLOYER FOR AN EMPLOYEE HEALTH CARE BENEFITS MAY BE COUNTED TOWARD UP TO ONE FIFTH OF THE HOURLY RATE PAYABLE TO THE EMPLOYEE.

- (13) "PART-TIME EMPLOYEE" MEANS AN EMPLOYEE WHO IS NOT A FULL-TIME EMPLOYEE.
- (14) "PERSON" MEANS ANY FIRM, JOINT VENTURE, PARTNERSHIP, LIMITED LIABILITY COMPANY, CORPORATION, CLUB, ASSOCIATION OR ORGANIZATION, EITHER INCORPORATED OR UNINCORPORATED, HOWEVER OPERATING OR NAMED, WHETHER ACTING DIRECTLY OR BY A SERVANT, AGENT OR FIDUCIARY, AND INCLUDING ALL LEGAL REPRESENTATIVES, HEIRS, SUCCESSORS AND ASSIGNS THEREOF.

(D) MINIMUM REQUIREMENTS

- (1) AT A MINIMUM, A CONTRACTOR OR GRANTEE SHALL PROVIDE ITS EMPLOYEES A LIVING WAGE.
- (2) THE IMPLEMENTING DEPARTMENT SHALL CALCULATE AND PUBLISH AN ANNUAL BULLETIN STATING THE MINIMUM LIVING WAGE RATES WITHIN THIRTY (30) DAYS OF THE PUBLICATION OF THE FEDERAL POVERTY GUIDELINE IN THE FEDERAL REGISTER. THE IMPLEMENTING DEPARTMENT SHALL, WITH THE ASSISTANCE OF THE PURCHASING DIVISION OF THE FINANCE DEPARTMENT, NOTIFY EACH CONTRACTOR OR GRANTEE OF SUCH CHANGES IN WRITING BY REGULAR U.S. MAIL. SUCH ADJUSTMENT SHALL BECOME IMMEDIATELY EFFECTIVE UPON

PUBLICATION OF THE ANNUAL BULLETIN FOR NEW CONTRACTS
AND BECOME EFFECTIVE AT THE TIME OF CONTRACT RENEWAL
FOR EXISTING CONTRACTS.

(E) EQUAL EMPLOYMENT OPPORTUNITY.

TO THE GREATEST EXTENT FEASIBLE, A CONTRACTOR OR GRANTEE SHALL
MAKE GOOD FAITH EFFORTS TO FILL ALL NEW POSITIONS CREATED AS A RESULT OF
A CONTRACT FOR SERVICES OR ECONOMIC DEVELOPMENT ASSISTANCE BY
PROVIDING EQUAL EMPLOYMENT OPPORTUNITIES TO RESIDENTS OF THE CITY OF
LANSING. THE CONTRACTOR OR GRANTEE SHALL FURNISH DOCUMENTATION OF
THESE GOOD FAITH EFFORTS AS REQUIRED BY THE IMPLEMENTING DEPARTMENT.
THE FOREGOING SHALL NOT BE INTERPRETED AS A RESIDENCY REQUIREMENT NOR
SHALL IT CAUSE ANY CONTRACTOR OR GRANTEE TO TERMINATE, TRANSFER, OR
LAY OFF ANY EMPLOYEE WHO IS ON THE PAYROLL AT THE TIME THIS SECTION
BECOMES APPLICABLE AND EFFECTIVE FOR THAT CONTRACTOR OR GRANTEE.

(F) REQUIRED LANGUAGE IN SUBCONTRACTS.

EACH CONTRACTOR SHALL INCLUDE A CLAUSE IN ALL SUBCONTRACTS
RELATED TO THE CONTRACTOR'S CONTRACT FOR SERVICES WITH THE CITY THAT
REQUIRES THE SUBCONTRACTOR TO COMPLY WITH THIS SECTION. FAILURE OF A
SUBCONTRACTOR TO COMPLY WITH THE PROVISIONS OF THIS SECTION SHALL BE
CONSIDERED A VIOLATION OF THE SECTION BY THE CONTRACTOR.

(G) REQUIRED LANGUAGE IN CONTRACTS.

EACH CITY CONTRACT FOR SERVICES, INCLUDING CONTRACTS REQUIRED WITH LOCAL UNITS OF GOVERNMENT PURSUANT TO 1974 P.A. 198 FOR AN I.F.T. CERTIFICATE, SHALL REQUIRE, AS PART OF ALL BIDS AND APPLICABLE CONTRACT DOCUMENTS, A COPY OF THIS SECTION AND COMPLIANCE WITH THIS SECTION. EACH SUCH CONTRACT SHALL PROVIDE THAT WILLFUL OR REPEATED VIOLATION OF THIS SECTION WILL ENTITLE THE CITY TO TERMINATE THE CONTRACT.

(H) POSTING REQUIREMENTS OF THE LIVING WAGE.

A CONTRACTOR OR GRANTEE SHALL POST IN A CONSPICUOUS PLACE ON EACH JOB-SITE SUBJECT TO THIS SECTION, A COPY OF THE LIVING WAGE BULLETIN, AND ALL BULLETIN ADJUSTMENTS PUBLISHED UNDER PARAGRAPH (2) OF SUBSECTION D. A CONTRACTOR OR GRANTEE IS REQUIRED TO POST AND IMPLEMENT ANY CHANGE IN THE LIVING WAGE WITHIN THIRTY (30) DAYS OF CITY NOTIFICATION AS PROVIDED IN PARAGRAPH (2) OF SUBSECTION D.

(I) WAGE AND HOUR VIOLATION.

THIS SECTION SHALL NOT BE CONSTRUED TO LIMIT AN EMPLOYEE'S RIGHT TO BRING LEGAL ACTION FOR VIOLATIONS OF ANY MINIMUM COMPENSATION OR WAGE AND HOUR LAW.

(J) EXEMPTION FROM APPLICATION.

THE FOLLOWING ARE EXEMPT FROM THE PROVISIONS OF THIS SECTION:

- (1) ANY GOVERNMENTAL ENTITY;
- (2) ANY PRIVATE CORPORATION THAT HAS RECEIVED 501 (C) (3)

IRS DESIGNATION AND HAS 20 EMPLOYEES OR LESS,
WORKING ON THE PROGRAM FUNDED BY THE CITY;

- (3) CONTRACTORS OR GRANTEEES WITH AN APPLICABLE
COLLECTIVE BARGAINING AGREEMENT IN EFFECT;
- (4) CONTRACTORS OR GRANTEEES REQUIRED BY FEDERAL, STATE
OR LOCAL LAW TO PAY A PREVAILING WAGE; AND
- (5) EMPLOYEES ENROLLED IN A JOB-TRAINING OR SUMMER
YOUTH EMPLOYMENT PROGRAM.
- (6) FOR ANY CONTRACT FOR SERVICES OR REQUIRED FOR AN
I.F.T. CERTIFICATE, THE CITY COUNCIL MAY GRANT A
PARTIAL OR COMPLETE EXEMPTION FROM THE
REQUIREMENTS OF THIS SECTION IF THE CITY COUNCIL
DETERMINES ONE OF THE FOLLOWING:
 - A. TO AVOID ANY APPLICATION OF THIS SECTION THAT
WOULD VIOLATE FEDERAL, STATE OR LOCAL LAW; OR
 - B. THE APPLICATION OF THIS SECTION WOULD CAUSE
DEMONSTRATED ECONOMIC HARM TO AN OTHERWISE
COVERED EMPLOYER THAT IS A NON-PROFIT
ORGANIZATION, AND THE CITY COUNCIL FINDS THAT
SAID HARM OUTWEIGHS THE BENEFITS OF THIS
SECTION; PROVIDED FURTHER THAT THE OTHERWISE

COVERED NON-PROFIT EMPLOYER SHALL PROVIDE A WRITTEN PLAN TO FULLY COMPLY WITH THIS SECTION WITHIN A REASONABLE PERIOD OF TIME, NOT TO EXCEED THREE YEARS, AND THE CITY COUNCIL THEN AGREES THAT GRANTING A PARTIAL OR COMPLETE EXEMPTION IS NECESSARY TO AMELIORATE THE HARM AND PERMIT THE NON-PROFIT ORGANIZATION SUFFICIENT TIME TO REACH FULL COMPLIANCE WITH THIS SECTION.

(K) LIVING WAGE ADVISORY COMMITTEE.

THE LIVING WAGE ADVISORY COMMITTEE IS ESTABLISHED TO REVIEW THE EFFECTIVENESS OF THIS SECTION TO CREATE AND RETAIN LIVING WAGE JOBS IN LANSING AND TO PROMOTE ACCESS TO LIVING WAGE JOBS FOR LOW AND MODERATE INCOME RESIDENTS OF LANSING; REVIEW THE IMPLEMENTATION AND ENFORCEMENT OF THIS SECTION; AND MAKE RECOMMENDATIONS FROM TIME TO TIME IN CONNECTION WITH THE PURPOSE AND APPLICABILITY OF THIS SECTION.

(L) COMPOSITION OF ADVISORY COMMITTEE.

THE LIVING WAGE ADVISORY COMMITTEE SHALL CONSIST OF SIX (6) MEMBERS, EACH OF WHOM SHALL SERVE FOR A PERIOD OF THREE (3) YEARS. THE MAYOR SHALL APPOINT THE COMMITTEE MEMBERS, SUBJECT TO CONFIRMATION BY COUNCIL, AS FOLLOWS:

- (1) ONE LABOR UNION MEMBER SELECTED BY THE MAYOR FROM A LIST OF THREE NOMINEES RECOMMENDED BY THE PRESIDENT OF THE GREATER LANSING LABOR COUNCIL AFL-CIO.
- (2) ONE LABOR UNION MEMBER SELECTED BY THE MAYOR FROM A LIST OF THREE NOMINEES RECOMMENDED BY THE PRESIDENT CAPITAL AREA UAW/CAP COUNCIL.
- (3) ONE COMMUNITY-BASED ORGANIZATION MEMBER FROM AN ORGANIZATION OPERATING SOLELY WITHIN THE CITY OF LANSING.
- (4) ONE GREATER LANSING CHAMBER OF COMMERCE MEMBER SELECTED BY THE MAYOR FROM A LIST OF THREE NOMINEES RECOMMENDED BY THE CHAMBER.
- (5) ONE AT-LARGE MEMBER FROM THE COMMUNITY.
- (6) ONE CITY COUNCIL MEMBER SELECTED BY THE COUNCIL PRESIDENT.

NO MEMBER OF THE COMMITTEE SHALL PARTICIPATE IN ANY REVIEW OR RECOMMENDATION CONCERNING A CONTRACTOR OR GRANTEE IF THE MEMBER, OR HIS OR HER IMMEDIATE FAMILY, HAS A DIRECT OR INDIRECT FINANCIAL INTEREST IN THE OUTCOME OF SUCH REVIEW OR RECOMMENDATION.

(M) EARNED INCOME CREDIT NOTIFICATION.

CONTRACTORS AND GRANTEEES SHALL INFORM EMPLOYEES EARNING LESS THAN TWELVE DOLLARS (\$12.00) PER HOUR, OR SUCH OTHER AMOUNT AS DETERMINED BY THE IMPLEMENTING DEPARTMENT OF THEIR POSSIBLE ELIGIBILITY FOR THE STATE AND/OR FEDERAL EARNED INCOME CREDIT.

(N) COMPLAINT.

ANYONE WITH KNOWLEDGE OF A VIOLATION OF THIS SECTION MAY FILE A COMPLAINT WITH THE IMPLEMENTING DEPARTMENT, WHICH WILL HAVE NINETY (90) DAYS TO INVESTIGATE AND MAKE A DETERMINATION REGARDING THE COMPLAINT. THE IMPLEMENTING DEPARTMENT SHALL PROVIDE ANY CONTRACTOR OR GRANTEE, ALLEGED TO BE IN VIOLATION OF THIS SECTION, THE OPPORTUNITY TO PRESENT APPROPRIATE DOCUMENTATION TO DEMONSTRATE ITS COMPLIANCE. A CONTRACTOR OR GRANTEE DETERMINED BY THE IMPLEMENTING DEPARTMENT TO BE IN VIOLATION OF THIS SECTION SHALL HAVE THE RIGHT TO APPEAL ACCORDED BY LAW.

(O) PAYMENT FOR VIOLATION.

A CONTRACTOR OR GRANTEE WHO IS DETERMINED BY THE IMPLEMENTING DEPARTMENT TO BE IN VIOLATION OF THE LIVING WAGE REQUIREMENT SHALL BE NOTIFIED OF THE DETERMINATION IN WRITING BY REGULAR U. S. MAIL AND IN ABSENCE OF THE CONTRACTOR OR GRANTEE TAKING AN APPEAL WITHIN TWENTY ONE (21) DAYS OF THE DATE OF THE LETTER, SHALL PAY TO EACH EMPLOYEE

AFFECTED NOT LATER THAN FOURTEEN (14) DAYS FROM THE DATE OF THE LETTER
THE AMOUNT OF DEFICIENCY FOR EACH DAY OF THE VIOLATION.

(P) PENALTIES AND ENFORCEMENT.

- (1) A VIOLATION OF ANY PROVISION OF THIS SECTION
COMMITTED KNOWINGLY IS A CIVIL INFRACTION
PUNISHABLE BY A FINE OF \$250.00 FOR A FIRST OFFENSE, AND
\$500.00 FOR EACH OFFENSE COMMITTED THEREAFTER. THE
COURT MAY ISSUE AND ENFORCE ANY JUDGMENT, WRIT, OR
ORDER NECESSARY TO ENFORCE THIS SECTION, INCLUDING
PAYMENT TO THE EMPLOYEE OR EMPLOYEES OF THE
DIFFERENCE BETWEEN WAGES ACTUALLY PAID AND THE
LIVING WAGE THAT SHOULD HAVE BEEN PAID, INTEREST,
AND OTHER RELIEF DEEMED APPROPRIATE.
- (2) EACH PAYDATE UPON WHICH A VIOLATION OCCURS SHALL
CONSTITUTE A SEPARATE AND SINGLE VIOLATION
REGARDLESS OF THE NUMBER OF EMPLOYEES AFFECTED.
- (3) IN ADDITION TO ENFORCEMENT UNDER THIS SECTION, THE
CITY SHALL HAVE THE RIGHT TO MODIFY, TERMINATE,
AND/OR SEEK SPECIFIC PERFORMANCE OF ANY CONTRACT
ENTERED INTO IN COMPLIANCE WITH SUBSECTION D OF THIS
SECTION WITH AN EMPLOYER OR GRANTEE, OR TO CANCEL,

TERMINATE OR SUSPEND THE CONTRACT IN WHOLE OR IN PART AND/OR TO REFUSE ANY FURTHER PAYMENTS UNDER THE CONTRACT;

- (4) A CONTRACTOR OR GRANTEE WHO IS FOUND RESPONSIBLE BY THE COURT FOR A VIOLATION OF THIS SECTION ON THREE (3) SEPARATE OCCASIONS WITHIN A TWO (2) YEAR PERIOD SHALL BE BARRED FROM BIDDING ON OR ENTERING INTO ANY CONTRACT WITH THE CITY FOR A PERIOD OF THREE (3) YEARS FROM THE DATE OF THE LAST VIOLATION. A VIOLATION FOR PURPOSES OF THIS SUBSECTION MEANS ONE PAYROLL, PAYDAY, OR DATE OF PAYMENT, REGARDLESS OF THE NUMBER OF EMPLOYEES AFFECTED BY EACH VIOLATION.
- (5) NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO LIMIT IN ANY WAY THE REMEDIES, LEGAL OR EQUITABLE, WHICH ARE AVAILABLE TO THE CITY OR ANY OTHER PERSON FOR THE CORRECTION OF VIOLATIONS OF THIS CHAPTER.

(Q) SEVERABILITY.

IF A COURT OF COMPETENT JURISDICTION DECLARES ANY PORTION OF THIS SECTION INVALID OR UNENFORCEABLE, THEN THE REMAINING PROVISIONS SHALL REMAIN IN FULL FORCE AND EFFECT.

(R) EFFECTIVE DATE.

- (1) THIS SECTION SHALL NOT BECOME EFFECTIVE UNTIL THE IMPLEMENTING DEPARTMENT ISSUES A CERTIFICATION MEETING THE REQUIREMENTS OF SUBSECTION (R)(2) AND PROVIDES NOTICE OF CERTIFICATION ISSUANCE TO THE CITY COUNCIL.
- (2) THE CERTIFICATION SHALL CONTAIN A FINDING THAT ALL CLASSIFIED CITY EMPLOYEES ARE RECEIVING A LIVING WAGE.
- (3) THIS SECTION SHALL APPLY TO CONTRACTS ENTERED INTO OR RENEWED AFTER THIS SECTION BECOMES EFFECTIVE AS SET FORTH ABOVE. THE EXTENSION OF A CONTRACT FOR A PERIOD BEYOND ITS ORIGINAL TERM SHALL BE CONSIDERED ENTERING A CONTRACT FOR PURPOSES OF THIS SECTION.

(S) SUNSET.

THIS ORDINANCE SHALL AUTOMATICALLY EXPIRE THREE (3) YEARS FROM WHEN IT TAKES EFFECT UNLESS RE-ENACTED OR EXTENDED.

Section 2. All ordinances, resolutions or rules, parts of ordinances, resolutions or rules inconsistent with the provisions hereof are hereby repealed.

Section 3. Should any section, clause or phrase of this ordinance be declared to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be invalid.

Section 4. This ordinance shall take effect on the 90th day after enactment unless given immediate effect by City Council.